

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JESSICA MOUNCE, Individually
and on Behalf of All Others Similarly Situated

PLAINTIFF

V. CASE NO. 5:15-CV-05197

CHSPSC, LLC; NORTHWEST ARKANSAS
HOSPITALS, LLC d/b/a NORTHWEST MEDICAL CENTER;
and PROFESSIONAL ACCOUNT SERVICES, INC.

DEFENDANTS

ORDER GRANTING PRELIMINARY APPROVAL OF CLASS SETTLEMENT,
APPROVING THE FORM AND MANNER OF NOTICE,
AND SETTING FINAL APPROVAL HEARING

Currently before the Court are Plaintiff's Motion and Suggestions in Support of Preliminary Approval of Class Action Settlement (Doc. 70), to which Plaintiff has attached a Settlement Agreement signed by the parties (Doc. 70-1) and certain documents to be sent to the class members, namely, a proposed Short Form Notice (Doc. 70-2), a proposed Claim Form (Doc. 70-3), and a proposed Long Form Notice (Doc. 70-4). The parties executed their Settlement Agreement on April 26, 2018. They now ask the Court to preliminarily approve their settlement, appoint a representative plaintiff, appoint settlement class counsel, and permit class counsel, by and through a designated claims administrator, to mail the proposed Notice documents and Claim Form to the 925 class members.

After reviewing the Settlement Agreement and attached forms shortly after they were filed, the Court entered an Order (Doc. 72) on May 10, 2018, directing the parties to file a joint supplement to the Motion that answered specific questions the Court had

about the settlement. The parties filed their Joint Supplement (Doc. 73) on May 16, 2018. Thereafter, the Court suggested to the parties that they make certain amendments to the Notice documents and Claim Form, to more accurately reflect the possible dollar amounts that each class member could expect to receive by participating in the settlement. The parties agreed to the Court's suggestion, and on May 25, 2018, the parties jointly submitted revised Notice documents and a revised Claim Form via email. These documents are attached as an exhibit to this Order.

Upon reviewing the revised documents, the Motion, and the Settlement Agreement, the Court is now well satisfied that the proposed settlement merits preliminary approval. Accordingly, Plaintiff's Motion and Suggestions in Support of Preliminary Approval of Class Action Settlement (Doc. 70) is **GRANTED**, and the Court hereby **ORDERS** as follows:

1. Definitions. For purposes of this Order, all terms defined in the Settlement Agreement shall be incorporated herein.

2. Class Certification. Pursuant to Federal Rule of Civil Procedure 23, the Settlement Class is defined as follows:

All Arkansas residents who since April 30, 2010 through October 31, 2017, received any type of healthcare treatment from any entity located in Arkansas that is owned, controlled, managed and/or affiliated with Defendants, and: (i) such treatment was covered by valid, in network, commercial health coverage; (ii) the billing charges regarding such treatment were not timely submitted to the commercial health carrier; and (iii) Defendants obtained payments for such treatment as a result of asserting third-party medical liens, submitting claims for medical payments coverage, and/or seeking payment directly from the patients.

3. Preliminary Approval. Upon preliminary review, the Court finds that the

proposed settlement appears to be fair, reasonable, and adequate. In making this finding, the Court is persuaded that: (a) the proposed Settlement Agreement is the product of arms-length negotiations by the parties; (b) sufficient questions of law and fact exist that make the outcome of a trial on the merits uncertain; (c) the value of the proposed Settlement Agreement is reasonable, given the possible outcome of protracted and expensive litigation; and (d) the attorneys, who are very experienced in class action litigation, believe that the Settlement Agreement is fair and adequate, and recommend that the settlement be preliminarily approved.

4. *Rules 23(a) and 23(b).* The Court incorporates by reference the Rule 23 findings discussed in its class certification order, dated September 29, 2017. (Doc. 61). Those same findings apply to the Settlement Class.

5. *Class Representative.* Plaintiff Jessica Mounce is hereby appointed Class Representative on behalf of the Settlement Class.

6. *Class Counsel.* Attorneys Ralph K. Phalen, Mitchell L. Burgess, Shawn Daniels, and Sarah Jewell are hereby appointed as Class Counsel for the Settlement Class.

7. *Claims Administrator.* Dahl, Inc. is appointed as Claims Administrator for the Settlement Class and is tasked with, among other things, mailing the class members the revised Short Form Notice and Claim Form, which are attached to this Order as an exhibit; setting up and administering the entire claims process, including administering the website and toll-free telephone number that class members may access to obtain a copy of the Long Form Notice, also attached as an exhibit to this

Order; and, if the settlement is granted final approval by the Court, distributing the claims checks to the class members.

8. *Final Approval Hearing.* The Court will hold a hearing to consider whether the proposed settlement should be given final approval. The hearing will take place on September 21, 2018 at 3:00 p.m. in the Fifth Floor Courtroom of the United States District Court for the Western District of Arkansas, Fayetteville Division, located in the John Paul Hammerschmidt Federal Building at 35 East Mountain Street, Fayetteville, Arkansas. During the hearing, the Court will consider:

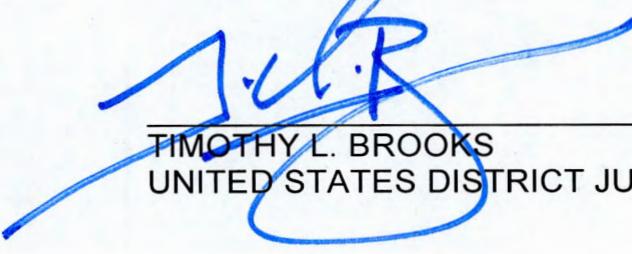
- (a) whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate;
- (b) whether a final judgment should be entered;
- (c) whether Class Counsel fairly and adequately protected the interests of the Settlement Class; and
- (d) whether Class Counsel's request for fees, costs, and expenses and the Class Representative's request for an Incentive Award should be approved.

9. *Notice.* In accordance with the provisions of the Settlement Agreement, the Claims Administrator, Dahl, Inc., is hereby directed to mail the Court-approved Notice and Claim Forms to the Settlement Class on or before 30 days from the date of this Order. No later than ten (10) days prior to the Final Approval Hearing, Dahl, Inc. shall file with this Court and serve on Class Counsel an affidavit or declaration stating that the mailing of the Notice and Claim Forms has been completed. The Notice documents attached to this Order constitute the best practical notice of the settlement, as they describe the action, claims, issues and defenses; define the Settlement Class; set the date for the Final Approval Hearing;

discuss the treatment of attorney's fees; and explain how class members may lodge objections to the proposed settlement.

10. Effect of Denial of Final Approval. In the event that the proposed settlement does not become Final (as that term is defined in the Settlement Agreement) in complete accordance with the terms of the Settlement Agreement for any reason, then this Order shall be vacated; the Settlement Agreement shall be rendered null and void in accordance with the Settlement Agreement; and Defendants shall not be deemed, as a result of entering into the Settlement Agreement, to have waived any right to contest or appeal any issue.

IT IS SO ORDERED on this 29th day of May, 2018.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE